

DELTA WALSH,

Plaintiff,

v.

FORREST GILLIAM, *et al.*

Defendants.

**DEFENDANT JOSHUA
BURCHFIELD’S PRE-ANSWER
MOTION TO DISMISS
PLAINTIFF’S SECOND AMENDED
COMPLAINT**

**Fed. R. Civ. Pro. 12(b)(1) and
12(b)(6)**

1. Pursuant to Federal Rule of Civil Procedure 12(b)(1), Defendant moves to dismiss all of Plaintiff's state law tort claims under the N.C. State Tort

Claims Act, as this Court lacks subject matter jurisdiction over such claims;

2. Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant moves to dismiss Plaintiff's Fourth Amendment claim for failure to state a claim upon which relief can be granted;
3. Alternatively, pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendant moves to dismiss all of Plaintiff's state law tort claims for failure to state a claim upon which relief can be granted;

Respectfully submitted, this the 12th day of August 2020.

CRANFILL SUMNER & HARTZOG, LLP

BY: /s/Stephanie H. Webster
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the foregoing ***Defendant Joshua Burchfield's Pre-Answer Motion to Dismiss Plaintiff's Second Amended Complaint*** with the Clerk of Court using the CM/ECF system, which will send electronic notification of such filing to the following counsel:

Jamie A. Stokes
jamie.a.stokes@gmail.com
Attorney for Defendant Dewain Mackey

and will deposit the foregoing document in the United States Mail, postage prepaid, addressed to the following:

Delta Walsh
P.O. Box 208
Mars Hill, NC 28754
Pro se Plaintiff

This the 12th day of August 2020.

CRANFILL SUMNER & HARTZOG, LLP

BY: /s/Stephanie H. Webster
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